

Burglary, Housebreaking, and Unlawful Entry

Burglary, housebreaking, and unlawful entry are offenses that all involve entry onto or into property without permission or authorization. But the offenses differ in method of entry, time of entry, type of structure entered, and the intent of the intruder making the entry.

Burglary is a crime of stealth. It takes place under the cover of darkness. It is most often combined with theft, but it may involve more violent crimes like murder, rape, or arson. Persons subject to the UCMJ who, with intent to commit an offense punishable under Articles 118 through 128, (except Article 123a, bad checks), break and enter in the night time the dwelling houses of another, are guilty of burglary.

The break-in may be by physical force or by trickery like that of pretending to be a telephone inspector. Entering through a hole in a wall or an open door is not a "breaking" under the law. But if a partly open door or window is opened wider to permit entry, it is a breaking. And, of course, entering by removing or opening any part of a dwelling, like a screen, a window pane, or a door meets the requirement of breaking.

As soon as any part of the body is inserted into the dwelling, the requirement of "entry" is met. Inserting an object, like a pole, into the dwelling to extract property also qualifies as entry. The breaking and entering must be done to a dwelling belonging to another. This includes outhouses within a cluster of buildings used as a residence. It also includes separate dwellings within the same apartment or building.

The breaking and entering must occur between sunset and sunrise when there is not enough light to discern a person's face. And it must be done with the intent to commit an act of murder, manslaughter, rape, sodomy, carnal knowledge, larceny, wrongful

CONTENTS

	Page
RESPONDING TO THE SCENE	162
RECONSTRUCTING THE OFFENSE	163

appropriation, robbery, forgery, arson, extortion, maiming, or assault. The offense does not have to be committed or even attempted. It is the *intent* to commit the act that is the basis of the proof of burglary.

Housebreaking is like burglary in that the intruder enters a structure unlawfully with the intent to commit a criminal offense within the structure. But the offense which the housebreaker intends to commit need not be covered under Articles 118 through 128, UCMJ. It need only be the intent to commit some criminal offense. Any act or omission punishable by a court-martial, except one that is a purely military offense, is a criminal offense. And the accused's intent must be alleged and proved to support a conviction of this offense. Housebreaking differs from burglary in that the place entered does not have to be a dwelling. Nor is it required that the place be occupied or that there be a breaking. And entry may occur in daylight as well as in darkness.

Unlawful entry upon lands or structures without force but by means of fraud or other willful wrong is closely related to housebreaking. But unlike housebreaking, the intent to commit an offense within the place entered is not needed for this offense. The basis of proof for this offense is that the entry was unlawful and that the conduct of the accused was prejudicial to good order and discipline.

When investigating a burglary or housebreaking you must be ready to cope with any of several other crimes. Most often, you are faced with a crime of theft or larceny. Thus the investigative techniques for larceny often apply to burglary. Your goal will be to identify and apprehend the offenders and recover as much stolen property as you can.

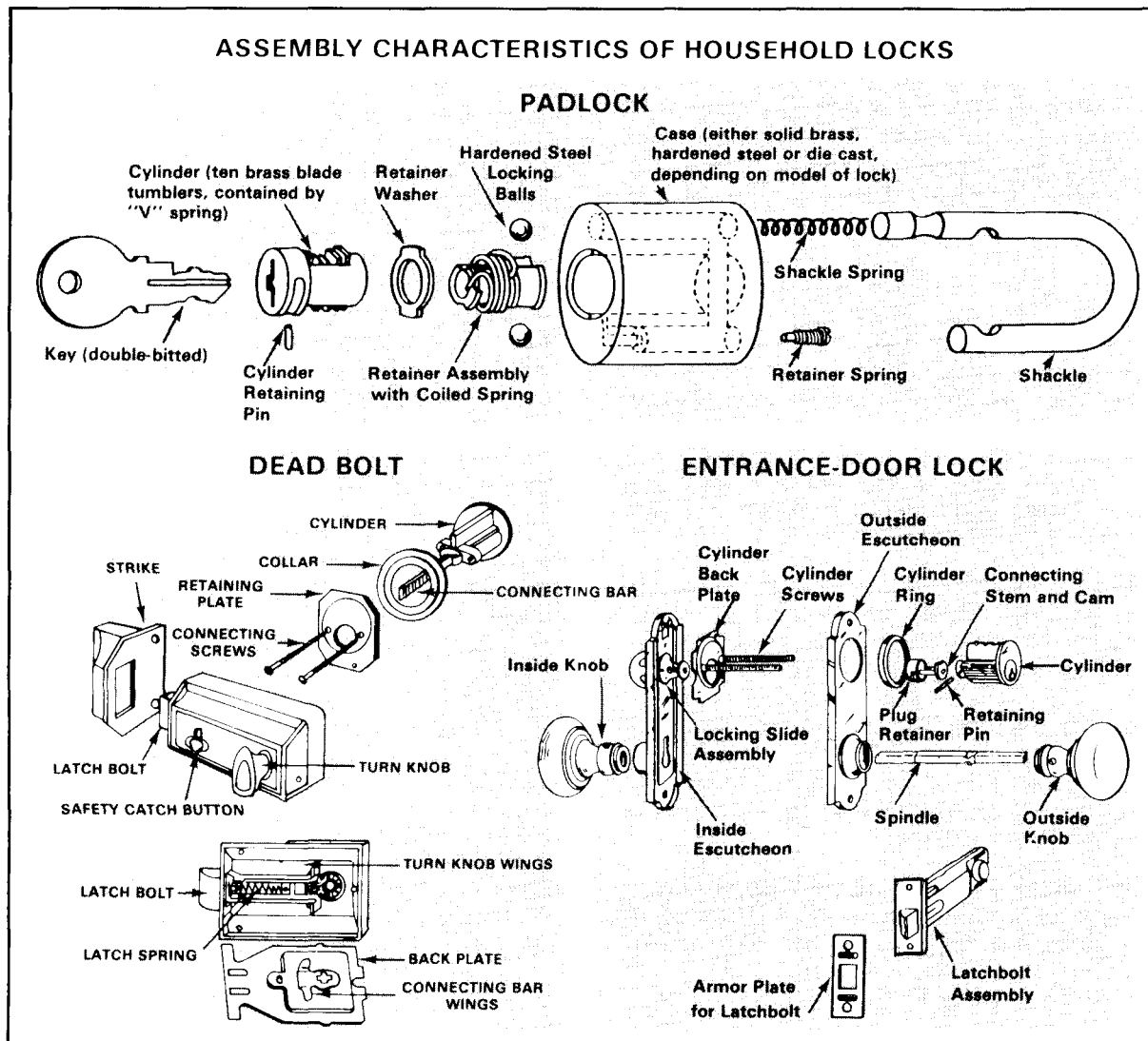
RESPONDING TO THE SCENE

When you arrive at the scene, note and record the location and description of the structure or area entered. Find out where the owners or occupants were at the time of the crime. Learn when the owners or occupants left and if all the doors and windows were secured. Try to learn the time the offender entered the structure or area. Try to learn the number of persons thought to have approached the crime scene.

Seek evidence as to how the offender arrived at the crime scene. Footprints or tire tracks may show the route or means of entrance to the place of the real property.

Study the tire tracks to learn the type and number of vehicles, the direction of travel, and the places parked. Look for materials that may have been dropped, like gas, mud, oil, or water. Check also for those that might have been picked up, like soil or rock. Make casts of tire tracks and footprints found at the crime scene and send them to the lab. Once a suspect vehicle has been found, you can send the tires to the crime lab to be compared with the casts made at the scene.

To learn where and how the entry was made, search the property for broken or unlocked doors, windows, skylights, or gates.



See if locks or fasteners were forced. Check for holes sawed or hacked through walls, floors, partitions, or roofs. Lab examination of wood, glass, or metal evidence found at the scene may show the direction of the breaking force. You may also learn the kind of instrument used.

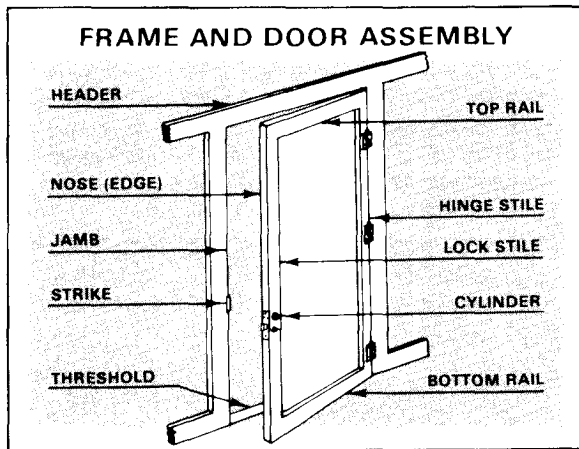
Check the size and shape of openings. See if they are large enough for an offender to get in and large enough to permit removal of the stolen property. Note the height of the openings from the ground or from where the offender stood. Try to tell if entry was made bodily or by reaching through a window with an arm or an instrument. See if it seems likely someone inside the building could or must have helped in the crime by passing items to the offender. How much help would be needed

to remove the stolen items? How many persons would it take to handle the equipment?

Try to tell what equipment, such as ropes, ladders, or digging tools, were used in the breaking and entering. Collect toolmarks that show a forced entry in original form if you can. If you must remove a door or cut away part of a building, post a guard for security until repairs are made. When you cannot collect original toolmarks, make casts or molds of them. Toolmarks should be photographed and measured and the area dusted for prints before casting a mold or removing a damaged section. Tire tracks and footprints, too, should be photographed before casts are made.

Look carefully to see if any evidence was destroyed. Offenders often wipe off fingerprints, wear gloves, deface toolmarks, or try to obscure footprints and tire tracks. Try to tell if evidence was damaged by the offender, the victim, or the witnesses before MP arrived. Note what was damaged by accident and what was damaged on purpose. If the area contains records, check to see if they are in order. The offender may have tried to falsify, destroy, or misplace them.

Detecting the method and route of exit and flight may give leads to the offender. Learn if the offender used an existing escape route or broke out. Consider if more than one trip was made to remove stolen items.



RECONSTRUCTING THE OFFENSE

Often you can simulate an offender's search of the scene. This simulation may show if the offender was familiar with the place. And note the manner of his search. It may be a feature of a familiar MO.

Look for fingerprints and other evidence at points where the offender searched. This may reveal important information. A careful study may suggest how much time the offender spent on the premises. You may learn how skilled the person is or how secure he felt. If it appears that the offender went directly to the stolen object, it could suggest he had advance information. How did he get such information? Was the offender's search systematic, thorough, selective, or

haphazard? The manner of search may show it to be the work of a professional or an amateur. Were objects replaced after being examined? Did the offender close doors and drawers? Such actions may show a choice of articles and motive. They may also hint at the offender's presence of mind and consciousness of detection. Consider what the offender did to deter detection while searching the scene. Were shades or blinds drawn? Was the inside door locked? Check for evidence of planned alternate escape routes.

It is possible that the victim is actually the offender. Sometimes crimes are staged to try to collect insurance or make a claim against

the government. Consider if another offense, like arson, was committed to hide the original crime. And keep in mind that the crime scene

or evidence may have been deliberately arranged to mislead or to draw suspicion from the offender.

INFORMATION USEFUL FOR INVESTIGATING A BURGLARY OR A HOUSEBREAKING

- Is the entered structure a residence, store, office building, warehouse, garage, or other type of structure?
- Where were the owners or occupants at the time of the crime?
- When did they leave? Were all doors and windows secured?
- Where were the keys? Did other burglaries and housebreakings occur in the same area? Was the same modus operandi used?
- Have there been any recent visitors to the premises? What about tradesmen and utilities inspectors?
- Was the crime committed by someone inside or outside the premises? Were the premises occupied at the time? Was entry gained by force? If an outside job, how did the criminal enter?
- Was entry effected by picking a lock, by taking wax impressions, or by using skeleton keys or other burglar tools?
- Does the completed list of property that was stolen include a detailed description with identifying data?
- Where, when, and how was any property recovered? Did the owner identify it?
- Did the thief limit himself to one kind of property, or take other valuable items?
- Did the criminal conduct a systematic search? Did the search indicate a knowledge of the area? Were alarm wires cut?
- Have pawnshops and secondhand shops been checked for loot? Have express offices been checked for evidence of recent shipments?
- Did the thief do anything besides search and steal? Did he eat, did he smoke, did he commit a nuisance? Were any cigarette butts or matches found? What brand were they?
- Were any tools recovered at the scene? Were any tools recovered from the person of the suspect or his dwelling?
- Has any person been seen loitering about the premises? Did anyone observe the criminal leaving the premises? Were any clues observed in or around the premises?